

Kentucky Family Matters



Quarterly News & Information About Kentucky's Family Courts

January 2003

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Commonwealth Expresses Strong Confidence In Family Courts

Kentucky voters gave Family Courts a resounding victory when they approved the Family Courts amendment in the November 2002 general election with more than 75 percent of the vote and passage in all 120 Kentucky counties. The overwhelming support made Family Court a permanent part of the Kentucky Constitution.

Chief Justice of Kentucky Joseph E. Lambert declared the election results a testament to Family Court as a positive improvement for the commonwealth. "This is a historic moment for Kentucky," said Chief Justice Lambert at an election night victory party in Louisville, the site of the state's first Family Court. "Not only does this emphatic vote ensure that Family Courts can continue in the counties they already serve, but it means that we can begin to implement, over time, Family Courts throughout the state to help every Kentucky family and child."

Family Courts started in 1991 as a pilot project in Jefferson County when then-Chief Justice Robert F. Stephens temporarily appointed several circuit and district judges to the new court. A vote was necessary to make the system a permanent part of the Kentucky Constitution and current Chief Justice Lambert served as a guiding force behind the process to adopt Family Courts as a formal constitutional amendment. As a result, 132 members of the Kentucky General Assembly voted earlier this year to pass Senate Bill 58, which placed the amendment on the November ballot.

Based on the election's strong outcome, Chief Justice Lambert has accelerated efforts to establish additional Family Courts in areas that can use existing court resources to implement the program. "I believe that elections must be taken seriously and the outcome must be meaningful," he said. Since November, the Chief Justice has announced that Family Courts will be implemented in seven new judicial circuits in 2003. The counties that will be impacted are Fayette in Judicial Circuit 22, Campbell in Judicial Circuit 17, Harrison, Nicholas, Pendleton and Robertson in Judicial Circuit 18, Johnson, Lawrence and Martin in Judicial Circuit 24, Carter, Elliott and Morgan in Judicial Circuit 37, Barren and Metcalfe in Judicial Circuit 34, and Boyle and Mercer in Judicial Circuit 50.

With these new additions in 2003, Family Courts will serve 42 Kentucky counties and **nearly 2 million** citizens. While 32 other states have variations of this program, Kentucky's system is so progressive and successful that it can be considered a national model.

Chief Justice Lambert, who calls Family Courts the greatest innovation in Kentucky law in a quarter century, says his goal is to have Family Courts operating in every Kentucky county in 10 years. He expects the program to evolve as the General Assembly approves funding to expand the system statewide.

Kentucky Family Matters is a forum for the exchange of ideas and information relevant to Family Courts. The viewpoints expressed in the articles submitted do not necessarily represent the viewpoint of the Administrative Office of the Courts. The Department of Family Courts does not guarantee the accuracy of the information contained in submitted articles and is not responsible for any errors, omissions or results obtained from use of the information.

Research data tells us that students who become truant and eventually drop out of school put themselves at a long term disadvantage in becoming productive citizens.

Manual to Combat Truancy
www.negp.gov/NEGP/issues/publication/coalitiodoc/656.html

FAMILY COURT SITE UPDATES

CHRISTIAN COUNTY...

Jim Bailey, Court Administrator

One hundred and fifty entries were received from participating schools for the “My Family Art Contest.” Students, their families and friends enjoyed an open house, which featured the art work of the students and named the winners in this year’s contest. Twelve students received first, second or third place awards and there were 13 honorable mention awards. The winning entries will be on display in Family Court for the next year. Circuit Judge Judy Hall initiated the art contest two years ago because she hoped it would help parents realize the importance of family values.



Did you know...

Truancy is the first sign of trouble; the first indicator that a young person is giving up and losing his or her way. When young people start skipping school, they are telling their parents, school officials and the community at large that they are in trouble and need our help if they are to keep moving forward in life.

Manual to Combat Truancy
www.negp.gov/NEGP/issues/publication/coalitiodoc/656.html

CLAY/JACKSON/LESLIE COUNTIES...

Philip Mobley, Court Administrator

Family Court Judge Gene Clark and the Clay County Board of Education have introduced “Truancy Training” classes in the 41st Judicial District. This is an innovative concept derived from the collective input of school officials and Judge Clark. According to school officials, truancy is a problem that is progressing at an alarming rate.

The training is designed to help reduce truancy in the local schools by educating parents on the pitfalls of persistent truancy.

Parents of truant children are ordered to attend and complete a two-hour training program conducted by the Board of Education. Day and night sessions are offered twice weekly. Training must be completed within 30 days. The board files an attendance and completion report with the court. Parents are advised that failure to satisfactorily complete the training can result in a finding of contempt of court with sanctions.

Family Court offers the perfect forum to generate this type of interaction, and subsequent resolution of family oriented problems in the community. It is hoped that in the near future, truancy will be reduced significantly with the concerted efforts of school officials and Family Court.



FLOYD/KNOTT/MAGOFFIN COUNTIES...

Dovie Damron, Court Administrator

We would like to welcome Jason Reichenbach as the new law clerk. Jason replaces Barry Davis who left to take employment as in-house counsel for First Commonwealth in Prestonsburg, Ky.

Jason is a Floyd county native. He holds a double major in philosophy and government from Morehead State University. While there Jason was president of the Judo and Jujitsu clubs. After graduation he pursued an MBA. He was then accepted at University of Dayton School of Law in 1999 and received his juris doctorate in May 2002. While in law school, Jason clerked for the Floyd Circuit Court and also worked for the legal publishing firm Lexis Nexis in Miamisburg, Ohio.

Dovie Damron and LeAnn Francis presented "The Middle Is No Place for a Child," at the conference *Caring for Every Child's Mental Health: Communities Can* sponsored by Mountain Comprehensive Care on Sept. 26 in Paintsville, Ky. The conference was designed to enhance the knowledge and understanding of family members, educators, practitioners and others interested in topics related to children and youth with severe emotional and behavioral disorders.

FRANKLIN COUNTY...

Nancy Hulett, Court Administrator

Franklin County Family Court would like to introduce Kelly Pigman, the new law clerk. She came to Family Court after receiving her law degree from the University of Kentucky. She was admitted to the Kentucky Bar Association in October 2002. Kelly received her bachelor of arts in English, also from the University of Kentucky. Kelly is originally from Knott County, but currently resides in Fayette County. Recently, she completed mediation training and is now helping the support worker with many of her cases that need mediation. She has been working with domestic violence victims, answering the phones and (when she is not bombarded with clients) with Judge Rhorer on a variety of orders and motions. Her demeanor and personality are a great asset to our team, although Judge Rhorer is very outnumbered with four women on his staff.



Hon. Reed Rhorer and Kelly Pigman

HENDERSON COUNTY...

Robin Turpen, Court Administrator

Newly elected to the Henderson Circuit Court, Family Court Division, Judge Sheila Nunley Farris is a 1985 graduate of the University of Louisville Law School. She has practiced in the private sector in Henderson since graduation and as an assistant county attorney since 1989. Judge Farris is married to Don Farris, has three sons, Josh, Nick and Matt, and two daughters, Meghan and Morgan. Judge Farris is familiar with the juvenile court systems and is looking forward to making families matter.



Hon. Sheila Nunley Farris

Robin Turpen is the court administrator. With 16 years of experience in the County Attorney's Office as a child support enforcement worker, she looks forward to a new perspective working with the court. Robin is a 22 year Henderson resident, is married to David, and is "mom" to two Alaskan Malamutes and two cats.

Shelah Powers is the newly appointed Family Court Support Worker. With 11 years of community relations experience, she most recently served as community service director for the Evansville State Hospital. She looks forward to helping families access the many community services available to Henderson County residents. Ms. Powers lives in Henderson with her husband, Mark and teenage daughter, Allison.

Julie Folsom is the judicial secretary for Judge Sheila Nunley Farris. Julie has 15 years of secretarial and administrative assistant experience. She is a life long Henderson county resident, living with her toddler, Elijah, and husband, Johnny. Julie is very excited to return to the legal system.

Welcome New Family Courts!

FAYETTE COUNTY..

On Dec. 3, 2002, Chief Justice Joseph E. Lambert and Justice James E. Keller of the Supreme Court of Kentucky announced that Fayette County will implement Family Court in 2003. Fayette County will begin with three judges—Chief Fayette Circuit **Judge Gary Payne**, Fayette District **Judge Kimberly Bunnell** and a judge still to be named who will fill the Circuit Court seat vacated by the appointment of Judge Lewis Paisley to the Kentucky Court of Appeals.

Judge Gary Payne received his bachelor's degree from Pepperdine University in 1976 and juris doctorate from the University of Kentucky in 1978. Judge Payne worked for state government and the IRS from 1979-80. In 1981 he entered private practice, from 1984—1987 he served as assistant prosecutor for Fayette County. In 1988, Judge Payne worked for the Corrections Cabinet until he was appointed to the district bench in 1988. He was appointed to the office of Fayette County circuit judge in March 1994 and was elected November 1994.



Judge Kimberly Bunnell came to Lexington in 1981 from Cave City, Ky., to attend the University of Kentucky. After graduating with departmental honors in Business Administration in 1985, Judge Bunnell remained in Lexington and received her juris doctorate from the College of Law in 1988. She began her legal career as an assistant Fayette County attorney and stayed with that office until 1991. In 1991, Judge Bunnell moved to the Fayette Commonwealth's Attorney's Office where she was supervisor of the Repeat Offender Prosecution Enforcement program. After being prosecutor for eleven years, Judge Bunnell was appointed to the bench in January 2000.

BARREN/METCALFE COUNTIES...

On Dec. 4, 2002 **District Court Judge W. Mitchell Nance** was appointed as circuit judge of the Second Division (Family Court) of the 43rd Judicial Circuit in Barren and Metcalfe counties. Judge Nance is a native of Glasgow, Ky. He received an associate degree from Harvard College in 1973 and his juris doctorate from the University of Louisville in 1977. He was elected to the bench in November 2000.

BOYLE/MERCER COUNTIES...

On Dec. 9, 2002, **District Judge Bruce Petrie** accepted the appointment to Family Court. Judge Petrie is a native of Lancaster, Ky., who earned a bachelor's degree from Morehead State University and his juris doctorate from Chase College of Law. He was appointed to the bench in 2000 and ran successfully for election in November 2000 and re-election in 2002. He and his wife, Lesli, have a daughter, Elysse.

JOHNSON/LAWRENCE/MARTIN COUNTIES...

On Dec. 19, 2002, Chief Justice Joseph E. Lambert and Justice Janet L. Stumbo of the Supreme Court of Kentucky announced the 24th Judicial Circuit will implement Family court in 2003. The announcement came during a news conference at the Johnson County Courthouse in Paintsville, Ky.

Chief Regional Circuit Judge Stephen N. Frazier was appointed to serve as Family Court Judge. Judge Frazier received his bachelors degree from Pikeville College and his juris doctorate from the University of Louisville. He was admitted to the bar in 1969 and elected circuit judge in 1983. Judge Frazier was appointed as chief regional judge in June 1986.

CLARK/MADISON COUNTIES...

Chief Justice Joseph E. Lambert announced on Dec. 30, 2002, a second division of Family Court will be coming to Clark and Madison counties in 2003. **District Judge Jeffrey M. Walson** has accepted the appointment to Family Court. Judge Walson brings a well-rounded perspective on the law that comes from his background in private practice, his service as a assistant commonwealth's attorney and nearly 10 years on the bench.

FAMILY DAY CELEBRATION

A Day To Eat Dinner With Your Children

Chief Justice of Kentucky Joseph E. Lambert and Families and Children Cabinet Secretary Viola Miller joined Executive Director of KY-ASAP Larry Carrico for Champions for a Drug Free Kentucky at The Growing Place Family Youth and Resource Center in Frankfort to celebrate Family Day on Sept. 23.

Family Day is a national effort to promote parental engagement as a natural, effective way to reduce teen substance abuse risk. Since 1996, research by The National Center on Addiction and Substance Abuse at Columbia University has consistently shown that the more often a child eats dinner with his family, the less likely that child is to smoke, drink or use illegal drugs.



Chief Justice Joseph Lambert and Executive Director, KY-ASAP Larry Carrico, spoke about Family Day.

Children from the Second Street School in Frankfort were present at the Family Day celebration and enjoyed lunch with Chief Justice Lambert, Mr. Carrico and others.



Chief Justice Joseph Lambert visited with students from Second Street School, Frankfort.

Chief Justice Lambert referred to the children as the “stars of this show,” saying, “One of the best ways to prevent substance abuse is for parents to maintain a healthy relationship with their children. The practice of eating meals together maintains the contact.” He said that the Kentucky Court of Justice and Family Courts in particular support this effort very much.

Mr. Carrico emphasized the role of parents in preventing substance abuse. He said, “Parents remain the biggest influence in a child’s life, providing a stronger influence than their peers, friends or even the media. We encourage parents to have dinner with their children today.”

“The family is one of nature’s masterpieces.”

-George Santayana-

Statements of Consent in Adoptions Practice Guidelines

Donna A. Schneider
Staff Attorney
12th Judicial Circuit

Family Courts frequently handle adoption cases involving children with living biological parents whose parental rights have not been terminated. Examples of such cases include young unwed birth mothers and stepparent adoptions. Before courts may enter a final judgment of adoption, these biological parents must consent to the pending adoption. KRS 199.500 (1). The biological parent's consent must be given in a voluntary and informed manner. *Id.* There are limited statutory exceptions to this rule. *See* KRS 199.500 (1) (a-d) and (4).

The meaning of "voluntary and informed consent" is statutorily defined in KRS 199.011(14). Prior to the entry of a final judgment of adoption, any required consent must be filed with the court. KRS 199.490 (2). The statement of consent must be written and must contain all of the information set forth in KRS 199.011 (14). The consent must be signed and sworn to by the consenting person. *Id.*

Under the statute, four elements must be met for consent to be deemed "voluntary and informed." First, the consenting person must be completely informed of the legal effect of giving consent to the adoption of her child. Second, the consenting person must not receive nor have been promised anything of value in exchange for the consent. The consenting person may receive the statutorily permissible expenses set forth in KRS 199.590 (6). Third, the consenting person must not have been coerced to sign the consent. Fourth, the consent must be given voluntarily and knowingly.

Under the statute, it is presumed that the consenting person agreed to the adoption in a voluntary and informed manner if the person was represented by independent legal counsel at the time the consent was signed. It should be noted that under Kentucky law, attorneys are not authorized to represent both the biological parents and the prospective adoptive parents in an adoption action. KRS 199.492 expressly forbids such practice. Violation of the rule is classified as a Class A misdemeanor. KRS 199.492 (2).

KRS 199.011 (14) sets forth a detailed list of information that must be included in a properly drafted statement of consent. The statement of consent must state the date, time and place of its execution. The statement of consent must state the adoptee child's date and place of birth. If the child has been named by the consenting person, the statement of consent must state the child's name. The statement of consent must state the consenting person's relationship to the child. The statement of consent must either identify the proposed adoptive parents by name, or contain a statement indicating that the consenting person does not wish to know the identity of the proposed adoptive parents. The statement of consent must contain a paragraph indicating that the consenting person understands that his or her consent will be final and irrevocable under the terms of the statement of consent unless his or her consent is withdrawn in conformity with KRS 199.011 (14) (e) (1) or (2).

The statute requires that the statement of consent specify where the child shall be placed in the event the adoption is not finalized by the court. The statement of consent must contain an acknowledgment that the consenting person received a complete signed copy of the consent after its execution. The statement of consent must identify, by name and address, the person preparing the statement. The statement must also identify, by name and address, the person explaining the document to the consenting party. The statement must include a verified acknowledgement by the consenting person that the statement of consent was reviewed with him or her and fully explained. The statement of consent must state the full amount of any legal fees incurred by the consenting person for preparation of the statement of consent. Finally, the statement of consent must state the source of funds for payment of any legal fees associated with the preparation.

In assisting clients with adoption law issues, attorneys should keep two fundamental rules in mind. First, "the right of adoption exists only by statute." *Wright v. Sharp*, 711 S.W.2d 492, 494 (Ky. App. 1986). Second, Kentucky law requires "strict compliance with the adoption statutes." *Id.* When practitioners fail to strictly follow the adoption statutes, they run the risk of delaying the adoption process. They also run the risk of producing an invalid judgment of adoption for their clients. *Id.*

Statements of consent must be carefully drafted to conform to the statutory requirements outlined in KRS 199.011 (14). The statement of consent should clearly reflect that all the required elements of "voluntary and informed consent" have been met. The statement of consent must contain all the factual data outlined in the statute.

Diligence in adhering to the drafting requirements set forth in KRS 199.011 (14) will assist in making the adoption process more efficient. Diligence in conforming to the drafting requirements will also clearly indicate that the consenting person agreed to the adoption in a voluntary and informed manner. This will eliminate the need for a court to rely on a presumption that the consenting person agreed in a voluntary and informed manner. Diligence to the drafting requirements is in the best interests of all parties to an adoption action.

The author greatly appreciates the editorial assistance of Judge Paul W. Rosenblum in preparing this article.

Domestic Violence

Domestic violence often receives little attention from communities. Even though most of us realize family abuse occurs in every kind of community in the Bluegrass, it is a topic that is often avoided. There may be community awareness announcements or discussions about particular legal decisions or potential legislation, but there is little widespread attention given to domestic violence every day.



The glaring exception seems to come immediately following homicide. How can we stop domestic violence? While there is certainly no one answer, it is clearly a goal we should all work toward.

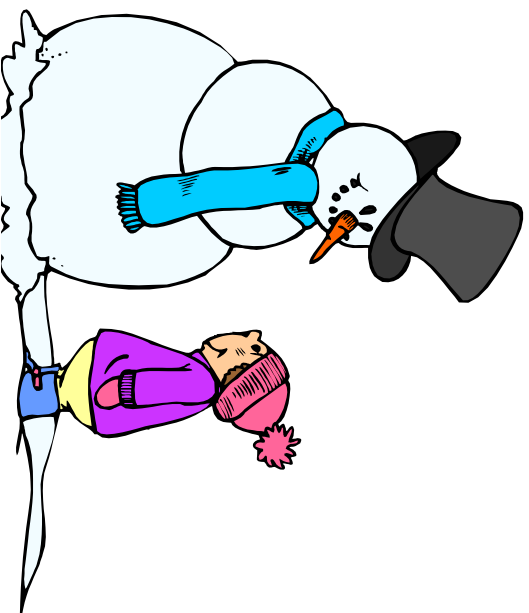
Knowledge is power. Learn about the dynamics of domestic violence. Understand the cycle of violence and the many barriers faced by victims of domestic violence.

YWCA SPOUSE ABUSE CENTER SERVICES

- **24-Hour Crisis Line (1-800-544-2022)** Provides counseling, information, referrals and assessment for shelter to any victim needing assistance.
- **Safe, Confidential Shelter,** Provides safe, temporary housing for victims and their dependent children.
- **Domestic Violence Counseling,** Shelter residents may participate in individual and group counseling.
- **Casework Referrals and Assistance,** Linkage to vital community resources and agencies.
- **Children's Counseling,** Individual and group counseling, play therapy and supervised recreational activities are offered to help children cope with trauma.
- **A "Safe School"** operated within the Center allows the children to continue their K-12 education while in shelter.
- **Outreach Counseling,** Counseling is available to victims and their children who are not residents of the shelter.
- **Legal and Hospital Advocacy,** Legal and hospital advocates act as liaisons between victims and the court and medical systems.
- **Community Education,** Professional in-service trainings and educational programs can be tailored to a variety of groups.
- **Community Based Support Groups,** Support groups are offered on a weekly basis in several counties throughout the Bluegrass Area Development District.

ALL SERVICES ARE FREE AND CONFIDENTIAL.

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